IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.38222 of 2007
AJAY KUMAR AGRAWAL, SON OF PREM LAL AGRAWAL, RESIDENT OF VILLAGE-TRIVENIGANJ, POLICE STATION-TRIVENIGANJ, DISTRICT-SUPAUL……...PETITIONER.

Versus

1. **THE STATE OF BIHAR.**
2. **BIMAL KUMAR SINGH, BLOCK SUPPLY OFFICER, TRIVENIGANJ, SUPAUL.**

……OPPOSITE PARTIES.

For the Petitioner : Mr. Ashutosh Kumar Advocate.
For the State : Mr. Jharkhandi Upadhyay, A.P.P.

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2. 08.12.2008. Through this application, the petitioner, the sole F.I.R. named accused of Triveniganj P.S. Case No.102 of 2006 has prayed for the quashing of the order dated 3.6.2007/4.6.2007 passed therein by the learned Sub-Divisional Judicial Magistrate, Supaul, whereunder he has taken cognizance under Section 7 of the Essential Commodities Act (hereinafter referred to as "the E.C. Act").

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Briefly stated the prosecution case is that at about 3 P.M. on 4.8.2006 approximately 860 liters of diesel was allegedly found stored in drums in an open space located behind the wooden gumti by the side of the shop of the petitioner. At the time of recovery 9 drums were recovered and out of them 5 drums contained 220 liters of diesel each and 2 drums contained 100 liters of diesel each whereas the other two drums were found empty. On the basis thereof on the direction of the District Magistrate, Supaul, the Sub Divisional Officer, Triveniganj, directed the Block Supply Officer, Triveniganj, to

institute a case of excess storage of diesel and the aforesaid Triveniganj P.S. case came to be registered.

Without dilly-dallying with the submissions advanced by the learned counsel for the petitioner, the instant application has to succeed on the following issues:

(1). Firstly, the F.I.R. does not disclose as to who conducted the raid and whether such person was competent to conduct such raid.

(2). Secondly, Section 7 of the E.C. Act deals with the persons who contravene any Order made under Section 3 of the E.C. Act but if there is no contravention of any Order then no criminal case can be launched against any person. The First Information Report herein does not disclose the nature of offence as to which of the Orders made under Section 3 of the E.C. Act had been violated. It is well settled by now that if the First Information Report/complaint does not disclose any offence then the Court can quash the prosecution under its inherent jurisdiction.

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For the reasons aforementioned, I am of the opinion that the prosecution of the petitioner herein is an abuse of the process of the court. Accordingly, the entire criminal proceeding against the petitioner arising out of Triveniganj P.S. Case No.102 of 2006 is hereby quashed and the application is allowed.

(Abhijit Sinha,J)

Spd/-